# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JOSETTE BERTRAND Claimant	)
VS.	/ Docket No. 180,352
JOHNSON COUNTY COMMUNITY COLLEGE Respondent	{
AND	{
KANSAS ASSOCIATION OF SCHOOL BOARDS Insurance Carrier	{

## ORDER

Claimant appeals from a Preliminary Hearing Order entered by Administrative Law Judge Alvin E. Witwer, dated August 8, 1994, denying claimant's request for preliminary benefits.

### **A**PPEARANCES

Claimant appeared by her attorney, Michael A. Preston of Overland Park, Kansas. The respondent appeared by its attorney, Frederick J. Greenbaum of Kansas City, Kansas.

#### ISSUES

By the appealed Order of August 8, 1994, the Administrative Law Judge denied claimant's request for treatment of a psychological condition and related temporary total disability benefits. The Administrative Law Judge found claimant had not established by a preponderance of credible evidence the psychological problems were causally related to her accidental injury of April 3, 1993. Claimant appeals and challenges the finding that the condition is not traceable or causally related to the accidental injury.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board concludes that the finding challenged by this appeal is not one subject to review on appeal from a preliminary order. The Appeals Board has previously held that an appeal

from an order granting psychiatric or psychological treatment is not subject to review on appeal from a preliminary order. See Susan Cunningham v. Michael E. Michael, D.D.S., Docket No. 177,523 (April 1994). A finding that the psychological condition is or is not traceable to the physical injury is not one of the findings listed in K.S.A. 44-534a and is not otherwise a jurisdictional finding. Respondent admits claimant suffered a physical injury. The Administrative Law Judge, therefore, had jurisdiction to find either that the psychological condition was or was not traceable to that injury. That decision will not, therefore, be disturbed on appeal.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the August 8, 1994, Preliminary Order by Administrative Law Judge Alvin E. Witwer, should and does remain in full force and effect as entered.

IT IS SO ORDERED.
Dated this day of February, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

cc: Michael A. Preston, Overland Park, KS Frederick J. Greenbaum, Kansas City, KS Alvin E. Witwer, Administrative Law Judge George Gomez, Director